

NEIL M. BAROFSKY, Partner

Neil M. Barofsky is an accomplished trial lawyer and well-known authority on a variety of issues at the intersection of economics, law, business, policy and politics. Drawing upon his experience as a former federal prosecutor and as the Presidentially appointed first special inspector general of the historic US\$700 billion Troubled Asset Relief Program (TARP), Mr. Barofsky assists companies seeking to improve their corporate culture through compliance counseling and monitorships, as well as assisting clients in responding to regulatory and criminal investigations. He is chair of Jenner & Block's Monitorship Practice.

As head of Jenner & Block's COVID-19 Response Team, Mr. Barofsky counsels clients on how to navigate the crisis and the government's response to the global pandemic. He is a regular commentator in national print, radio and TV media, focusing on the CARES Act and related government stimulus legislation, including authoring op-eds published by *The New York Times* and *Bloomberg*. Mr. Barofsky has also been a resource to lawmakers through the crisis, testifying in July 2020 at a hearing before the US Senate Committee on Homeland Security and Governmental Affairs on the relief programs' effectiveness, improving oversight, and legislation that Congress should take into account as it considered authorizing additional programs and funding. Mr. Barofsky draws upon his time as SIGTARP where he established and supervised the audit division that oversaw the financial assistance provided to corporations after the 2008 financial crisis, and provided real-time advice and oversight as the US Department of Treasury developed and implemented many of the TARP programs. Mr. Barofsky also created and oversaw its law enforcement division, which conducted the criminal and civil investigations of those who abused the bailouts, and helped provide transparency through his testimony dozens of times to Congress.

Mr. Barofsky also focuses on white collar investigations and complex commercial litigation, often with a public interest component. In 2019, *New York Law Journal* recognized him as a "New York Trailblazer" for his work on monitorships. In 2015, he was named one of *The National Law Journal's* "Winning" litigators as well as a regulatory and compliance "Trailblazer."

While not exhaustive, Mr. Barofsky's recent engagements include:

- Appointed monitor to Credit Suisse Securities (USA) LLC following its \$5.3 billion settlement with the US Department of Justice over the sales of residential mortgage-backed securities in the run-up to the 2008 financial crisis.
- Appointed monitor to Credit Suisse AG following the bank's \$715 million settlement with the New York Department of Financial Services, part of a broader \$2.6 billion settlement that involved the US Department of Justice and federal regulators.
- Secured a victory before the California Court of Appeal for non-profit homeowner advocacy groups in civil litigation against the California governor and other state officials over the misappropriation of more than \$331 million in mortgage settlement relief funds.



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PRACTICE GROUPS

Financial Services Litigation
Government Controversies and Public Policy
Litigation
Investigations, Compliance and Defense
Litigation
Monitorship Practice
Securities Litigation and Enforcement
State Enforcement and Regulation

INDUSTRY GROUPS

COVID-19 / Coronavirus Resource Center

EDUCATION

New York University School of Law, JD,
1995; *magna cum laude*; Order of the Coif

University of Pennsylvania, Wharton School
of Business, BS, 1992; *magna cum laude*

University of Pennsylvania, College of Arts
and Sciences, BA, 1992; *magna cum laude*;
with distinction

ADMISSIONS

New York

COURT ADMISSIONS

US Supreme Court

US District Court, Southern District of New
York

US District Court, Eastern District of New
York

- Representation of senior executives at CEO and Director level in state and federal criminal and regulatory investigations.
- Advisor to major hedge funds regarding complex litigation and Congressional matters.
- Serving as expert witness in significant complex commercial litigation involving a major regional bank.

In his role as chief watchdog for TARP, he created and oversaw a law enforcement division that conducted criminal and civil investigations of fraud and abuse linked to the bailout program, resulting in recoveries or avoided losses of more than \$700 million in taxpayer money and which has led to more than 360 fraud convictions to date. He also established and oversaw an audit division that created reports that brought greater transparency and accountability to TARP, recommended ways to improve the program, and which protected taxpayers from fraud-related losses.

Previously, Mr. Barofsky spent eight years as a prosecutor in the US Attorney's Office for the Southern District of New York. There, he served in the Securities and Commodities Fraud Unit and later founded and led the office's Mortgage Fraud Group as Senior Trial Counsel. He investigated and prosecuted some of the most significant cases in the United States, including the successful investigation, trial and conviction of former Refco, Inc. officers for their promotion of and participation in a \$2.4 billion securities and accounting fraud. As a member of the International Narcotics Trafficking Unit, Mr. Barofsky investigated and prosecuted complex transnational narcotics cases, including the successful investigation leading to the indictment of the top 50 leaders of the terrorist Revolutionary Armed Forces of Colombia (FARC), the largest narcotics indictment in US history.

For his work in the Refco matter, Mr. Barofsky received the US Attorney General's John Marshall Award, the Department of Justice's highest award for excellence in legal performance, and the Executive Office of the United States Attorneys' Director's Award for Superior Performance.

Immediately before joining Jenner & Block, Mr. Barofsky was Senior Fellow at New York University School of Law's Center on the Administration of Criminal Law, an adjunct professor at the law school and affiliated with the Mitchell Jacobson Leadership Program on Law and Business. He is a frequent speaker and commentator on issues related to financial regulation, was a senior contributing editor for Bloomberg TV, and has written opinion columns for publications such as *The New York Times*, the *Financial Times*, *The New Republic*, Bloomberg, Reuters and others. He is also the author of *Bailout*, his bestselling book about his experiences as SIGTARP.

At Jenner & Block, Mr. Barofsky serves on the firm's Management Committee.

Awards

- Attorney General's John Marshall Award – 2007
- *Chambers USA*
Litigation: White-Collar Crime & Government Investigations, 2017, 2018
- Executive Office of the United States Attorneys' Director's Award – 2008
- *Lawdragon* 500 Leading Lawyers of America
- *Legal 500*
Dispute Resolution - Corporate Investigations and White-Collar Criminal Defense, 2017
- *National Law Journal*
Regulatory and Compliance Trailblazer, 2015
"Winning" Litigator, 2015
- *New York Law Journal*
"New York Trailblazer - Monitorships" - 2019

Publications

- “How Steve Mnuchin Snubbed Joe Biden,” *The New York Times*, November 20, 2020
- Co-Author, Client Alert: Loaded for Bear: An Overview of the Federal Reserve’s Corporate Credit Facilities, August 12, 2020
- *The Guide to Monitorships – Second Edition*, June 2020
- Co-Editor, Client Alert: Ready for Launch (Redux)? An Updated Analysis of the Federal Reserve’s Rapidly Changing Main Street Lending Facilities, June 15, 2020
- Co-Author, Client Alert: Here We Go Again: Congress Again Amends the Paycheck Protection Program in Response to Criticism, but Is It the Last Time?, June 12, 2020
- Co-Editor, Client Alert: Ready for Launch? An Analysis of the Federal Reserve’s Main Street Lending Facilities, June 2, 2020
- Co-Author, *Consumer Finance Observer* – Spring 2020, May 14, 2020
- “Why the Small-Business Bailout Went to the Big Guys,” *Bloomberg*, May 1, 2020
- Co-Author, Client Alert: Legislative and Regulatory Update: A Busy Month for the Paycheck Protection Program, April 27, 2020
- Co-Editor, Client Alert: Regulatory Alert: An Analysis of the Federal Reserve’s New and Expanded Programs to Support the US Economy, April 14, 2020
- Co-Author, Client Alert: Treasury and SBA Launch New Small Business Lending Program Amidst Confusion and Last Minute Changes – An Analysis of the New Program, April 3, 2020
- Editor, Client Alert: Legislative Update: An Analysis of the Historic \$2 Trillion CARES Act, March 30, 2020
- Editor, *The Guide to Monitorships*, June 2019
- Co-Author, “Changing Corporate Cultures,” *The Guide to Monitorships*, June 2019
- Co-Author, Client Alert: *U.S. v. Newman*: Second Circuit Reverses Remote Tippees’ Convictions for Insider Trading Where Tippers Never Charged, December 22, 2014
- *Bailout: An Inside Account of How Washington Abandoned Main Street While Rescuing Wall Street*, Free Press, 2012
- “An Unlikely Hero Takes A Stand Against The Big Banks,” Bloomberg View, March 14, 2013
- “Geithner Doctrine Lives on in LIBOR Affair,” *Financial Times*, February 7, 2013
- “The Monster Is Alive and Is Still Too Big to Fail,” *Yahoo! Finance*, August 21, 2012
- “Tim Geithner’s Principal Hypocrisy,” Reuters, August 6, 2012
- “Foreclosure Crisis Lessons Not Yet Learned,” *Huffington Post*, October 15, 2011
- “Washington Follows Path to Credibility Downgrade,” Bloomberg View, July 27, 2011
- “Broken Promises,” *New York Times*, July 11, 2011
- “Lessons from the Crisis” adapted from the VoxEU.org eBook *Dodd-Frank: One Year On*, *Huffington Post*, July 7, 2011

- “Where The Bailout Went Wrong,” *New York Times*, March 29, 2011

Speaking Engagements

- Panelist, “Enforcement Compliance and Trends from a US Perspective,” Anti-Corruption and Compliance Summit 2020, Berlin, September 14, 2020
- Panelist, “Enforcement and the Coronavirus Stimulus -- Lessons and Predictions from TARP Insiders,” ABA White Collar Crime Sub-Committee on Public Corruption, June 04, 2020
- “Changing and Maintaining Your Culture of Compliance – Through the Eyes of a Government-Appointed Monitor”, February 12, 2019
- “The Legacy of the Bailouts: Where Are We Now?” The Graduate Center at the City University of New York, November 28, 2018
- “Corporate Response to Crisis – What Happens When Your Company is Under Scrutiny,” Association of Corporate Counsel of New York City, April 26, 2017
- Letter of Credit Law Summit, Jenner & Block, October 27, 2016
- Moderator, 8th annual Global Ethics Summit, Ethisphere, March 09, 2016
- “SEC Enforcement: Is More Needed?” Columbia Law School, November 14, 2013
- “Challenges of the TARP Program and Impact on Alternative Assets,” Duff & Phelps Seventh Annual Alternative Investments Conference, November 14, 2013
- “Rewriting Dodd-Frank,” *New York Times*’ DealBook Conference, November 12, 2013